***HON'BLE SRI JUSTICE P.S. NARAYANA**

+WRIT PETITION NOs.17276 and 17852 of 2006

%20-09-2006

W.P.No.17276/2006
Between:

#P.Durgamma … PETITIONER

versus

$The Government of A.P. represented by
its Secretary, Panchayat Raj Department,
Secretariat, Hyderabad and four others. … RESPONDENTS

WP.No.17852/2006
Between:
#Pichetti Nagamani … PETITIONER

versus

$The Government of A.P. represented by
its Secretary, Panchayat Raj Department,
Secretariat, Hyderabad and four others. … RESPONDENTS

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!Counsel for petitioners in WP.No.17276/2006: Sri G.V.Shivaji.

^**Counsel for Respondents:** **G.P. for Panchayat Raj.**
G.P. for Social Welfare.
G.P. for Revenue.
Sri M.Janardhan Rao

!Counsel for petitioners in WP.No.17276/2006: Miss. A.B. Lalitha

^**Counsel for Respondents:** **G.P. for Panchayat Raj.**

G.P. for Social Welfare.
G.P. for Revenue.
Sri M.Janardhan Rao

? Cases referred
NIL

THE HON'BLE SRI JUSTICE P.S.NARAYANA

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COMMON ORDER:

Heard Sri G.V.Shivaji and Smt.A.B.Lalitha, learned counsel representing the writ petitioners in both these Writ Petitions and the learned Government Pleader for Social Welfare.

2. In both these Writ Petitions, Notice Before Admission was ordered on 28.8.2006 and the learned Government Pleader for Social Welfare had taken notice on behalf of 1st respondent. The respective petitioners were directed to take out notice to 5th respondent and file proof of service and accordingly the 5th respondent was served and Sri M.Janardhan Rao entered appearance on behalf of 5th respondent. Counter affidavits are filed in both these Writ Petitions by 4th respondent.

3. In both these Writ Petitions the relief prayed for being common and the respondents also being common, both these Writ Petitions are being disposed of by a common order.

4. The respective writ petitioners filed these Writ Petitions praying for a Writ of Mandamus declaring the action of the 4th respondent in issuing false caste certificate to the 5th respondent certifying her as B.C.-Tammali and thereby enabling the 5th respondent to contest for

the elections to the office of the Sarpanch of Munganda Gram Panchayat and further action of the respondents 2 and 3 in not taking any action against 4th respondent in spite of complaint made about the false caste certificate as highly illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondents 2 and 3 to conduct enquiry and taking appropriate action against the respondents 4 and 5 by also declaring that the 5th respondent is not entitled to function as Sarpanch of Munganda Gram Panchayat in view of the fraud played by her in obtaining false caste certificate and pass such other suitable orders.

5. It is stated by the respective writ petitioners in both these Writ Petitions that the writ petitioners belong to B.C. community. It is also stated that they had contested the elections for the office of the Sarpanch of Munganda Gram Panchayat, which is reserved for B.C. Woman. It is stated that the 5th respondent belongs to a well-known Brahmin community having plenty of landed properties in and around Munganda village and she does not belong to B.C. community at all. Several factual details had been narrated and it is stated that the 5th respondent claiming herself to be a B.C. caste-Tammali, had contested the election and she was duly declared elected. It is stated that the said Tammali community people residing in East Godavari District are not eligible and entitled for reservation under B.C. community and the Government, in fact, issued specific directions/orders vide G.O.Ms.No.1793, Education Department, dated 23.9.1970. Several other factual details also had been narrated in both the affidavits filed in support of the respective Writ Petitions.

6. An elaborate counter affidavit is filed by 4th respondent. It is stated in the counter affidavit that the post of Sarpanch of Munganda village of P.Gannavaram Mandal is reserved for B.C. Women and the respective petitioners also are the contesting candidates for the office

of Sarpanch and the 5th respondent also contested for the said post. The 5th respondent filed an application for issue of Caste Certificate claiming Tammali (Sivarchaka) B.C. community for filing nomination for the post of Sarpanch and the 4th respondent had issued Certificate basing on the enquiry conducted by the Mandal Revenue Inspector, P. Gannavaram. Several other factual details had also been narrated and the procedure to be followed and the remedies available under A.P. (SC., ST., BCs) Regulation of Issue of Community Certificate Act, 1993 also had been specified. Certain submissions no doubt were made in relation to GO.Ms.No.1793, Education Department, dated 23.9.1970.

7. On over all facts and circumstances and also in the light of the stand taken by the 4th respondent in the respective counter affidavits, this Court is of the considered opinion that inasmuch as the 5th respondent is said to have been elected to the office of the Sarpanch and the grievance of both the writ petitioners in these Writ Petitions being that on the strength of a Caste Certificate issued by the 4th respondent she was declared duly elected and she is not entitled for such benefit at all since she doesn't fall under the said category or the said category in the particular District does not fall under the B.C. category at all, all these questions may have to be adjudicated upon before an appropriate Election Tribunal by way of Election Petition. Hence, liberty is given to the petitioners to approach the appropriate Election Tribunal by way of Election Petitions, if they are so advised. Further liberty also is given to the respective petitioners to make appropriate representations in relation thereto in accordance with the provisions of A.P. Panchayat Raj Act, 1994 and A.P. (SC., ST., BCs) Regulation of Issue of Community Certificate Act, 1993 to the appropriate authority. It is needless to say that such representations under the provisions of A.P. Panchayat Raj Act, 1994 and A.P. (SC.,

ST., BCs) Regulation of Issue of Community Certificate Act, 1993, if any made, to be disposed of at an early date. Except making these observations, no further orders need be passed.

8. Accordingly both the Writ Petitions are disposed of. There shall be no order as to costs.

20.09.2006

SSR

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